

08 - 20259

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.

18 U.S.C. § 1347

18 U.S.C. § 2

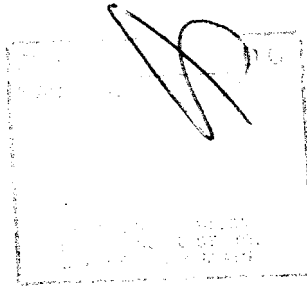
18 U.S.C. § 982

UNITED STATES OF AMERICA

vs.

YORDANO RUVIERA DIAZ,

Defendant.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Medicare Program

1. The Medicare Program ("Medicare") is a federally funded program that provides free or below-cost health care benefits to certain individuals, primarily the elderly, blind, and disabled. The benefits available under Medicare are governed by federal statutes and regulations. The United States Department of Health and Human Services ("HHS"), through its agency, the Centers for Medicare and Medicaid Services ("CMS"), oversees and administers Medicare. Individuals who receive benefits under Medicare are commonly referred to as Medicare "beneficiaries."

2. Medicare is a "health care benefit program," as defined by Title 18, United States Code, Section 24(b).

3. Part B of the Medicare Program is a medical insurance program that covers, among other things, certain physician and outpatient services, and other health care benefits, items, and services, including durable medical equipment (“DME”), that are medically necessary and ordered by licensed medical doctors or other qualified health care providers. DME is equipment that is designed for a specific medical purpose and for repeated use, such as wound care supplies, knee braces, prosthetic limbs, back braces, wrist braces, and wheelchairs.

4. For Florida beneficiaries, Medicare Part B’s insurance concerning DME and related health care benefits, items, and services, was administrated by Palmetto Government Benefits Administrators (“Palmetto GBA”), pursuant to a contract with HHS. Among Palmetto’s GBA’s responsibilities, it received, adjudicated, and paid the claims of authorized DME suppliers that were seeking reimbursement for the cost of DME and other health care benefits, items, or services supplied or provided to Medicare beneficiaries.

Medicare Billing and Payment Procedures

5. A Part B provider that sought to participate in Medicare Part B and bill Medicare for the cost of DME related benefits, items, and services, was required to apply for and receive a provider number. The provider number allowed a Part B provider to submit bills, known as “claims,” to Medicare to obtain reimbursement for the cost of outpatient related health care benefits, items, and services that a DME company supplied or provided to beneficiaries.

6. To receive payment from Medicare, a DME company, using its provider number, would submit a health insurance claim form, known as a CMS-1500. Medicare permitted a DME company to submit a CMS-1500 electronically or by way of a paper claim form. Each claim form required certain important information, including: (a) the Medicare beneficiary’s name and

identification number; (b) the identification number of the doctor or other qualified health care provider who ordered the health care benefit, item, or service that was the subject of the claim; (c) the health care benefit, item, or service that was provided or supplied to the beneficiary; (d) the billing codes for the benefit, item, or service; and (e) the date upon which the benefit, item, or service was provided or supplied to the beneficiary.

7. Medicare, through Palmetto GBA, generally would pay a substantial portion of the cost of the clinical related health care benefits, items, and services that were medically necessary and ordered by licensed doctors or other qualified health care providers.

8. Payments under Medicare Part B were often made directly to the DME company rather than to the patient/beneficiary. For this to occur, the beneficiary would assign the right of payment to the Part B provider or other health care providers. Once such an assignment took place, the DME company would assume the responsibility for submitting claims to, and receiving payments from, Medicare.

The Cleveland Clinic

9. The Cleveland Clinic was a medical clinic with locations in Weston and Naples, Florida, and elsewhere. As such, the Cleveland Clinic was a health care provider. On or about May 1, 2006, Health Management Associates ("HMA") purchased the Cleveland Clinic in Naples, Florida, and continued to run the location as a medical clinic. HMA was a health care provider.

10. A Cleveland Clinic employee who was a front desk office coordinator at the Cleveland Clinic in Weston, Florida, fraudulently obtained Medicare information and other identifying information pertaining to 1500 Medicare patients of HMA (the former Cleveland Clinic in Naples, Florida). The former Cleveland Clinic employee received \$5 to \$10 for each patient's

Medicare number and other identifying information. The fraudulently obtained Medicare numbers and other identifying information were utilized by numerous medical providers in the Southern District of Florida, including in Miami Dade-County, to fraudulently bill Medicare for medical services not rendered and medical equipment not supplied.

De La Torre Medical Equipment, Inc.

11. DE LA TORRE MEDICAL EQUIPMENT, INC. was a Florida corporation, incorporated on or about September 24, 2004, that purportedly did business in Miami-Dade County. DE LA TORRE MEDICAL EQUIPMENT, INC. was a company purportedly providing DME related items, benefits, and services to Medicare beneficiaries. DE LA TORRE MEDICAL EQUIPMENT, INC. was located at 3900 NW 79th Avenue, Suite 592, Doral, Florida 33166.

12. Defendant **YORDANO RUVIERA DIAZ** was the owner of record of DE LA TORRE MEDICAL EQUIPMENT, INC. beginning on or about June 26, 2006 and continuing through in or around October 2006. **RUVIERA DIAZ** opened and maintained a corporate bank account for DE LA TORRE MEDICAL EQUIPMENT, INC. at Wachovia Bank.

13. On or about May 20, 2006, DE LA TORRE MEDICAL EQUIPMENT, INC. obtained Medicare Services Provider Number 5624650001, authorizing the company to submit reimbursement claims to Medicare for DME related items, benefits, and services. DE LA TORRE MEDICAL EQUIPMENT, INC. submitted claims to Medicare using the Medicare numbers and other identifying information fraudulently obtained from HMA (the former Cleveland Clinic in Naples, Florida), resulting in DE LA TORRE MEDICAL EQUIPMENT, INC. submitting claims to Medicare in the amount of \$1,264,464. As a result of those claims, Medicare paid DE LA TORRE MEDICAL EQUIPMENT, INC. \$283,221.

COUNTS 1-10
Health Care Fraud
(18 U.S.C. §§ 1347 and 2)

1. Paragraphs 1 through 13 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around May 2006, and continuing through in or around October 2006, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

YORDANO RUVIERA DIAZ,

in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, a scheme and artifice to defraud Medicare, a health care benefit program affecting commerce, as defined by Title 18, United States Code, Section 24(b), and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, Medicare, that is, the defendant, through DE LA TORRE MEDICAL EQUIPMENT, INC., submitted false and fraudulent claims to Medicare, seeking reimbursement for the cost of various DME related items, benefits, and services.

Purpose of the Scheme and Artifice

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself and others by, among other things: (a) fraudulently obtaining Medicare patient information; (b) submitting or causing the submission of false and fraudulent claims to Medicare; (c) concealing the submission of false and fraudulent Medicare claims; and (d) diverting fraud proceeds for the personal use and benefit of himself and others.

Manner and Means of the Scheme and Artifice

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **YORDANO RUVIERA DIAZ** fraudulently obtained the names, the Medicare numbers and other patient identifying information of Medicare beneficiaries who were patients of HMA (the former Cleveland Clinic in Naples, Florida).

5. **YORDANO RUVIERA DIAZ** submitted and caused to be submitted by DE LA TORRE MEDICAL EQUIPMENT, INC., using the fraudulently obtained patient information, claims to Medicare for DME supplies, such claims falsely and fraudulently representing that these supplies were medically necessary and had been provided to the Medicare beneficiaries.

6. As a result of the submission of such false and fraudulent claims, **YORDANO RUVIERA DIAZ** caused Medicare to make payments to DE LA TORRE MEDICAL EQUIPMENT, INC. that were deposited into DE LA TORRE MEDICAL EQUIPMENT, INC.'s corporate bank account.

7. **YORDANO RUVIERA DIAZ** transferred and disbursed, and caused the transfer and disbursement of, monies from DE LA TORRE MEDICAL EQUIPMENT, INC.'s corporate bank account to himself and others.

Acts in Execution or Attempted Execution of the Scheme and Artifice

8. On or about the dates set forth as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **YORDANO RUVIERA DIAZ**, in connection with the delivery of and payment for health care benefits and services, did knowingly and willfully execute, and attempt to execute, the above-described scheme and artifice to defraud a health care benefit

program affecting commerce, that is Medicare, and to obtain, by means of materially false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of said health care benefit program:

Count	Medicare Beneficiary	Approx. Date of Service	Approx. Date of Submission of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
1	E.K.	6/13/06	8/9/06	106221736894000	Enter infusion pump w/o alarm (B9000); \$1,196
2	D.J.	6/16/06	8/9/06	106221736948000	RAD w/o backup non-inv intfc. (E0470); \$232
3	N.A.	6/16/06	8/9/06	106221736841000	Sterile gauze>16<=48 sq. in (A6403); \$40
4	K.T.	6/19/06	8/9/06	106221736850000	Humidifier heated used w PAP (E0562); \$361
5	D.P.	6/21/06	8/9/06	106221736811000	Neg. pressure wound therapy pump (E2402); \$2,059
6	D.S.	6/22/06	8/9/06	106221736887000	IV pole (E0776); \$110
7	P.S.	6/23/06	8/9/06	106221736765000	Powered pressure-reduction air mattress (E0277); \$730
8	B.K.	6/23/06	8/9/06	106221736790000	EF spec. metabolic noninherit (B4154) \$891.25

Count	Medicare Beneficiary	Approx. Date of Service	Approx. Date of Submission of Claim	Medicare Claim Number	Item Claimed; Approx. Amount Claimed
9	E.B.	7/4/06	8/29/06	106241895571000	Enteral feed supp. pump per d. (B4035); \$396
10	E.L.	7/12/06	8/2/06	106214701564000	Hydrocolld. drg. filler paste (A6240) \$440.64

In violation of Title 18, United States Code, Sections 1347 and 2.

FORFEITURE
(18 U.S.C. § 982)

1. The allegations contained in Counts 1-10 of this Indictment are realleged and incorporated by reference as though fully set forth herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **YORDANO RUIVIERA DIAZ**, has an interest pursuant to the provisions of Title 18, United States Code, Section 982(a)(1) and 982(a)(7).

2. Pursuant to Title 18, United States Code, Section 982(a)(7) and 982(a)(1), upon conviction of **YORDANO RUIVIERA DIAZ** for any of the offenses charged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, that constitutes or is derived, directly or indirectly, from gross proceeds traceable to the commission of the offense or any property real or personal which was involved in the offense or any property traceable to such property. Such forfeiture shall include, but not be limited to a money judgment in the amount of \$283,221, which represents the gross proceeds of the fraud.

3. If the property described above as being subject to forfeiture, as a result of any act or omission of **YORDANO RUVIERA DIAZ**,

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to or deposited with a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as made applicable through Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of **YORDANO RUVIERA DIAZ** up to the value of the above forfeitable property.

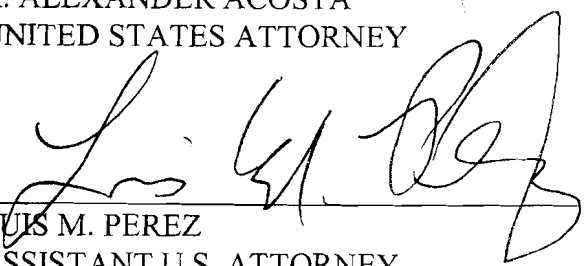
All pursuant to Title 18, United States Code, Sections 982(a)(1) and (a)(7) and the procedures set forth at Title 21, United States Code, Section 853, as made applicable through Title 18, United States Code, Section 982(b)(1).

A TRUE BILL

FOREPERSON



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



LUIS M. PEREZ
ASSISTANT U.S. ATTORNEY